

or other materials to conduct a simple test to determine whether the certification candidate has the requisite vision. No person shall be allowed to wear chromatic lenses during an initial test of the person's color vision; the initial test is one conducted in accordance with one of the accepted tests in the chart and §240.121(c)(3).

(4) An examinee who fails to meet the criteria in the chart, may be further evaluated as determined by the railroad's medical examiner. Ophthalmologic referral, field testing, or other practical color testing may be utilized depending on the experience of the examinee. The railroad's medical examiner will review all pertinent information and, under some circumstances, may restrict an examinee who does not meet the criteria from operating the train at night, during adverse weather conditions or under other circumstances. The intent of §240.121(e) is not to provide an examinee with the right to make an infinite number of requests for further evaluation, but to provide an examinee with at least one opportunity to prove that a hearing or vision test failure does not mean the examinee cannot safely operate a locomotive or train. Appropriate further medical evaluation could include providing another approved scientific screening test or a field test. All railroads should retain the discretion to limit the number of retests that an examinee can request but any cap placed on the number of retests should not limit retesting when changed circumstances would make such retesting appropriate. Changed circumstances would most likely occur if the examinee's medical condition has improved in some way or if technology has advanced to the extent that it arguably could compensate for a hearing or vision deficiency.

(5) Engineers who wear contact lenses should have good tolerance to the lenses and should be instructed to have a pair of corrective glasses available when on duty.

[64 FR 60996, Nov. 8, 1999]

PART 241—UNITED STATES LOCATION REQUIREMENT FOR DISPATCHING OF UNITED STATES RAIL OPERATIONS

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AUTHORITY: 49 U.S.C. 20103, 20107, 21301, 21304, 21311; 28 U.S.C. 2461, note; 49 CFR 1.49.

SOURCE: 67 FR 75960, Dec. 10, 2002, unless otherwise noted.

§241.1 Purpose and scope.

(a) The purpose of this part is to prevent railroad accidents and incidents, and consequent injuries, deaths, and property damage, that would result from improper dispatching of railroad operations in the United States by individuals located outside of the United States.

(b) This part prohibits extraterritorial dispatching of railroad operations, conducting railroad operations that are extraterritorially dispatched, and allowing track to be used for such operations, subject to certain stated exceptions. This part does not restrict a railroad from adopting and enforcing additional or more stringent requirements not inconsistent with this part.

§241.3 Application and responsibility for compliance.

(a) Except as provided in paragraph (b) of this section, this part applies to all railroads.

(b) This part does not apply to—

(1) A railroad that operates only on track inside an installation that is not part of the general railroad system of transportation; or

(2) Rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(c) Although the duties imposed by this part are generally stated in terms

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of a duty of a railroad, each person, including a contractor for a railroad, who performs a function covered by this part, shall perform that function in accordance with this part.

§ 241.5 Definitions.

As used in this part:

Administrator means the Administrator of the Federal Railroad Administration or the Administrator's delegate.

Dispatch means—

(1) To perform a function that would be classified as a duty of a “dispatching service employee,” as that term is defined by the hours of service laws at 49 U.S.C. 21101(2), if the function were to be performed in the United States. For example, to *dispatch* means, by the use of an electrical or mechanical device—

(i) To control the movement of a train or other on-track equipment by the issuance of a written or verbal authority or permission affecting a railroad operation, or by establishing a route through the use of a railroad signal or train control system but not merely by aligning or realigning a switch; or

(ii) To control the occupancy of a track by a roadway worker or stationary on-track equipment, or both; or

(iii) To issue an authority for working limits to a roadway worker.

(2) The term *dispatch* does not include the action of personnel in the field—

(i) Effecting implementation of a written or verbal authority or permission affecting a railroad operation or an authority or permission affecting a railroad operation or an authority for working limits to a roadway worker (e.g., initiating an interlocking timing device, authorizing a train to enter working limits); or

(ii) Operating a function of a signal system designed for use by those personnel.

Dispatcher means any individual who dispatches.

Emergency means an unexpected and unforeseeable event or situation that affects a railroad's ability to use a dispatcher in the United States to dispatch a railroad operation in the United States and that, absent the rail-

road's use of an extraterritorial dispatcher to dispatch the railroad operation, would either materially disrupt rail service or pose a substantial safety hazard.

Employee means an individual who is engaged or compensated by a railroad or by a contractor to a railroad to perform any of the duties defined in this part.

Extraterritorial dispatcher means a dispatcher who, while located outside of the United States, dispatches a railroad operation that occurs in the United States.

Extraterritorial dispatching means the act of dispatching a railroad operation that occurs on trackage in the United States by a dispatcher located outside of the United States.

Fringe border dispatching means the act of extraterritorial dispatching a railroad operation that occurs on trackage in the United States immediately adjacent to the border between the United States and Canada or the border between the United States and Mexico by a dispatcher who is a railroad employee located in Canada or Mexico.

FRA means the Federal Railroad Administration, United States Department of Transportation.

Movement of a train means the movement of one or more locomotives coupled with or without cars, requiring an air brake test in accordance with part 232 or part 238 of this chapter, except during switching operations or where the operation is that of classifying and assembling rail cars within a railroad yard for the purpose of making or breaking up trains.

Occupancy of a track by a roadway worker or stationary on-track equipment or both refers to the physical presence of a roadway worker or stationary on-track equipment, or both, on a track for the purpose of making an inspection, repair, or another activity not associated with the movement of a train or other on-track equipment.

Person means an entity of a type covered under 1 U.S.C. 1, including but not limited to the following: a railroad; a manager, supervisor, official, or other employee or agent of a railroad; an owner, manufacturer, lessor, or lessee